UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
v.	)	**No. 1:09-00009**
	)	**Judge Trauger**
THOMAS A. PAYNE	)	
	)	
Defendant.	)	
	)	
Re: 2613 Ragsdale Road	)	

MEMORANDUM OF LAW AND FACTS IN SUPPORT OF MOTION FOR ENTRY OF A FINAL ORDER OF FORFEITURE

1. On December 10, 2010, pursuant to 21 U.S.C. §853 this Court entered a Preliminary Order of Forfeiture (D.E. 175) as to defendant Julie A. Cruz and on October 12, 2011, this Court entered a Preliminary Order of Forfeiture (D.E. 286) as to defendant Thomas A. Payne forfeiting (in pertinent part) their interest in the following:

(a) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 2613 Ragsdale Road, Columbia, Maury County, Tennessee, more particularly described as:

> A certain tract of land lying in the 2nd Civil District of Maury County, Tennessee and being a portion of the property found on Tax Map 31, Parcels 21.01 and 24 and being more fully described, to wit:
>
> Beginning at an iron pin in the West right-of-way line of Ragsdale Road said pin being located South 14 degrees 10 minutes West 175 feet from the Southeast corner of Elvin W. Spencer's property said

> pin being the Northeast corner of said tract; thence with said right-of-way line South 14 degrees 10 minutes West 159.2 feet to an iron pin said ping being the Southeast corner of said tract; thence leaving said North 83 degrees 11 minutes West 114.2 feet to a corner fence post on the West side of a ditch; thence with said fence line South 89 degrees 01 minute West 178.4 feet to a fence corner said fence corner being the Southwest corner of said tract; thence with fence line as follows: North 08 degrees 02 minutes West 191.5 feet, North 26 degrees 00 minutes west 29.2 feet, North 06 degrees 45 minutes East 139.7 feet to an iron pin at a fence corner in the South line of the above-mentioned Elvin W. Spencer said pin being the Northwest corner of said tract; thence with a fence line along the South line of Spencer, South 85 degrees 32 minutes East 98.4 feet to an iron pin in a fence line at a ditch; thence with an old fence line along the West side of said ditch as follows, South 04 degrees 35 minutes West 59 feet, South 06 degrees 30 minutes East 50 feet, South 16 degrees 25 minutes East 100 feet to a stake; thence leaving said stake and crossing said ditch North 87 degrees 10 minutes East 228 feet to the point of beginning and containing 1.53 acres more or less as per survey made by James E. Sanders T.R.L.S. #31 dated July 21, 1993, and being known in the office of same as Job Number 10001500. This property is shown on the tax records of Maury County, Tennessee, as Map 31, Parcel 24.02. Being the same property conveyed to Earnest W. Kelley and Rachel Beard herein by deed of record in Book R1741, Page 56, Register's Office of Maury County, Tennessee, and

(hereinafter referred to as "Subject Property").

2. On November 4, 2010, a federal grand jury sitting in the Middle District of Tennessee returned a six count Second Superseding Indictment against the Defendant Thomas A. Payne charging that Defendant did unlawfully, knowingly, and intentionally possess with intent to distribute and did distribute a quantity of a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance in violation of 21 U.S.C. §841(a)(1) (D.E. 161: Second Superseding Indictment). The Forfeiture Allegation of the Second Superseding Indictment sought forfeiture of the Subject Property pursuant to 21 U.S.C. §853. (D.E. 161: Second Superseding Indictment).

3. Pursuant to 21 U.S.C. § 853(n), public notice of this forfeiture and of the intent of the United States to dispose of the Subject Property in accordance with the law and as specified in the Preliminary Order, and further notifying all third parties of their right to petition the Court within thirty (30) days after the final publication of notice for a hearing to adjudicate the validity of their alleged legal interest in the Subject Property was advertised on-line at "www.forfeiture.gov," the official internet government forfeiture site, for 30 consecutive days beginning on October 14, 2011 and ending on November 12, 2011. (D.E. __: Paralegal Gentry Affidavit, Exhibit 2).

4. On October 17, 2011, pursuant to 21 U.S.C. § 853(n), Ernest Kelly and Rachel Beard, alleged title owners of the Subject Property, were sent direct notice of this forfeiture and of the intent of the United States to dispose of the Subject Property in accordance with the law and as specified in the Preliminary Order, and further notifying them that they had thirty (30) days from the date of this direct notice or thirty (30) days from the end of publication, whichever is earlier, to petition the court for a hearing to adjudicate the validity of their alleged interest in the Subject Property. Said notice was received by Ernest Kelly and Rachel Beard on October 18, 2011. (D.E. __: Paralegal Gentry Affidavit, Exhibit 1).

5. No timely petition has been filed.

6. Pursuant to 18 U.S.C. § 982(b)(1) which incorporates 21 U.S.C. § 853(n)(7), following the Court's disposition of all petitions for the Subject Property subject to forfeiture, the United States shall have clear title to the Subject Property and may warrant good title to any subsequent purchaser or transferee.

WHEREFORE, the United States respectfully requests this Court enter a Final Order of Forfeiture, forfeiting to the United States of America the Subject Property with no right, title and interest existing in any other party, extinguishing any liens on the Subject Property and ordering the Subject Property to be disposed of according to law. A proposed Final Order of Forfeiture is attached for the court's convenience.

Respectfully submitted,

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Middle District of Tennessee

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 2012, a copy of the foregoing Memorandum of Law and Facts in Support of Motion for Entry of Final Order of Forfeiture was filed electronically. Notice of this filing will be sent to the following, if registered, by operation of the Court's electronic filing system. If not registered, notice was mailed by regular U.S. mail to:

Michael E. Terry
Stephanie H. Gore
1200 Sixteenth Avenue, S
Nashville, TN 37212

s/ Debra Teufel Phillips
DEBRA TEUFEL PHILLIPS